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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JIANLIANG ZHU,

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary of the
Department of Homeland Security;
CHRISTINA POULOS, Director,
California Service Center, U.S.C.I.S.;
CONDOLIEZZA RICE, Secretary of State,

Defendants.

No. C 08-0304 JCS

**STIPULATION TO CONTINUE TO
HOLD CASE IN ABEYANCE; and
[PROPOSED] ORDER**

Plaintiff, by and through his attorney of record, and Defendants, by and through their attorneys of record, hereby stipulate, subject to the approval of the Court, to the following:

1. Plaintiff filed this action on January 16, 2007, asking this Court to direct the United States Citizenship and Immigration Services (USCIS) to adjudicate his I-824 Application (Application For Action On An Approved Application or Petition) and the Department of State to issue an immigrant visa to his son.

2. The USCIS approved the plaintiff's I-824 application on March 5, 2008.

3. On March 24, 2008, this Court approved the parties' stipulation to extend the answer deadline to April 11, 2008, and to extend the date of the case management conference to May 9, 2008.

STIPULATION TO CONTINUE TO HOLD CASE IN ABEYANCE
C 08-0304 JCS

1 4. On April 4, 2008, this Court approved the parties' stipulation to extend the answer date, the
2 ADR date, the joint case management date, and the case management conference date, in light of
3 the fact that USCIS had recently forwarded the approved I-824 to the Department of State's
4 National Visa Center, which is the first step in the process of issuing a visa.

5 5. The approved I-824 has recently been routed to the American Consulate in Guangzhou,
6 China, for processing of the visa application.

7 6. The American Consulate in Guangzhou will begin processing the visa application once the
8 applicant provides a name, date and place of birth, and Chinese mailing address.

9 7. Although the statutory quota for employment-based third preference applicant (EB-3) has
10 been filled this year and a visa cannot be issued in this case until October 1, 2008, the consulate
11 can begin processing the case now (after the plaintiffs submit the information referred to in
12 paragraph six).

13 8. In light of the information set forth above, the parties asked this Court to hold this case in
14 abeyance for four months, in light of the reasonable possibility that this case may be
15 administratively resolved in the interim.

16 9. This Court granted the parties' request for a continuance on July 21, 2008, and scheduled a
17 case management conference for November 14, 2008.

18 10. On November 10, 2008, the parties filed a second stipulation to extend the date of the case
19 management conference, stating that the attorney for the State Department who is able to provide
20 information as to whether or not a visa has been issued is temporarily out of the office due to a
21 death in the family.

22 11. This Court granted the parties' request for a second continuance on November 13, 2008,
23 and schedule a case management conference for December 19, 2008.

24 12. The State Department has now indicated that the consulate will schedule an interview of
25 the applicant when his priority date is current and the parties are discussing what his priority date
26 is and/or should be.

27 13. In light of the reasonable possibility that the parties may be able to administratively
28 resolve this case, the parties ask this Court to yet again extend the case management conference by

1 one month.

2 14. Accordingly, the parties respectfully ask this Court to vacate the case management
3 conference and re-schedule the case management conference for **January 30, 2009, at 1:30 p.m.**

4 15. The parties recognize that they have asked for several extensions of the case management
5 conference and appreciate the Court's patience in this matter as they attempt to administratively
6 resolve the case. If the case is not administratively resolved within a month, the parties will file a
7 joint case management statement at least seven days in advance of the case management
8 conference.

9
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11
12 Date: December 15, 2008

Respectfully submitted,

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14 JOSEPH P. RUSSONIELLO
United States Attorney

15 /s/
16 EDWARD A. OLSEN
17 Assistant United States Attorney
Attorneys for Defendants

18
19 Date: December 15, 2008

20 /s/
JUSTIN X. WANG
21 Attorney for Plaintiff

22 **ORDER**

23 Pursuant to stipulation, IT IS SO ORDERED.

24
25 Date: 12/15/08

26 JOSEPH C. SPERO
United States District Judge
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